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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,698	07/11/2001	Yasuhiro Kawakita	31759-173737	8945

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VENABLE  
Post Office Box 34385  
Washington, DC 20043-9998

EXAMINER
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THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/901,698

**Applicant(s)**

KAWAKITA, YASUHIRO

**Examiner**

Marissa Thein

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 22-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group I, claims 1-21 in the reply filed on December 23, 2004.

Claims 22-34 are drawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on December 23, 2004.

Applicants respectfully requested to cancel the non-elected claims in response to the Office Action.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on July 11, 2001 is being considered by the examiner.

### ***Drawings***

The drawings filed on July 11, 2001 are acceptable.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 15-21 are rejected under 35 U.S.C. 101 because it fails to recite **computer executable** instructions. The claims are directed to machine-**readable** medium. Giving the term its broadest reasonable interpretation, the claims are directed to a program per-se and a program instruction. Accordingly, the claim fails to recite a positive functional interrelationship between the medium and the activities recited. Please refer to MPEP 2106.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-3, 5-6, 8-10, 12-13, 15-17 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,370,513 ('513) to Kolawa et al. (application is a continuation-in-part of application Ser No. 09/131,141, now U.S. Patent No. 6,263,974 ('974) to Kolawa disclosures of which are incorporated).**

Regarding claims 1, 8, and 15, Kolawa ('974) discloses a sale quantity information coordination service system, device and medium:

- a plurality of process method provider terminals at each of which an information page offering information on, at least a specific process method and process elements are required to implement the specific process is provided (recipe

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database 16 contains the actual copies of recipes,...the recipe database may act in conduction with an Internet browser to allow the user to access recipes via the World Wide Web, col. 5, lines 44-49);

- a plurality of process element providers terminals at each of which sale quantity information on sale unit and sale prices of the process elements required to implement the specific process is provided (determining the ingredient that need to be purchased once a user selects a suggested menu.....checks the recipe database to determine the necessary food ingredients for the chosen menu as well as the quantity of each ingredient. col. 9, lines 29-33; the purchase product database, each product will have a description and information concerning the validity date, the quantity of the product per container, col. 9, lines 51-54; the system can perform price optimization by selecting the product database with the cheapest price for the ingredient, col. 9, lines 59-61);
- a shopper terminal (ordering subsystem); and
- a coordinator terminal comprising a means for sale quantity information request that issues a request for the sale quantity information with respect to process elements included in the information page to at least one process element provider terminal in response to a request from a shopper terminal, a means for compilation that compiles a plurality of sets of sale quantity information provided by the plurality of process element provider terminals in a specific format and a means for providing sale quantity information to the shopper terminal that has requested said sale quantity information (kitchen computer 10 contains a choice

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subsystem 11, an inventory subsystem 12, an order subsystem 13, an instructions subsystem 14; a remote interaction subsystem 15, a recipe database 16, a purchase product database; col. 3, lines 4-9; coll.9, lines 28-33; col. 10, lines 1-19).

Regarding claims 2, 9, and 16, Kolawa ('974) discloses provide a means for process elements purchase specification to be used to specify a process element to be purchased for each process element (col. 9, lines 28-57; Figures 7a-7b); the shopper terminal is capable of placing an order for a process element by specifying the process element through the means for process element purchase specification and transmitting the complied sale quantity information to the process element provider (the list of needed product is crated and is ...sent to the ordering system which sends it to the store server, col. 10, lines 16-19).

Regarding claims 3, 5-6, 10, 12-13, 17, and 19-20, Kolawa ('513) a means for personal information registration that registers information indicating specific conditions under the process element is to be purchased in correspondence to each shopper (Figure 18; col. 12, lines 16-34); the means for sale quantity information request issues a request to the process element providers for sale quantity information based upon the personal information or the means for compilation compiles sale quantity information in a specific format based upon the personal information (col. 12, lines 16-34); the personal information includes process element purchase specification information specifying in advance process elements to be purchased or process elements not to be purchased (col. 12, lines 16-34; col. 13, lines 29-35); the means for compilation

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compiles the sale quantity information so as to specify in advance process elements to be purchased through the means for process element purchase specification based upon the process element purchase specification information or complies the sale quantity information so as to ensure in advance that the process elements not to be purchased are not specified through the means for process element purchase specification (col. 12, lines 16-34; col. 13, lines 29-35); the personal information includes purchase conditions specification information for specifying purchase conditions for purchasing process elements with priority order ranks attached thereto (col. 12, lines 35-46); provide a specific number of sets of sale quantity information based upon priority order ranks included in the purchase condition specification information and to indicate that there is a further choice in purchasing process elements apart from the options offered in the sale quantity information provided the means for compilation (col. 12, lines 35-46).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 7, 11, 14, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,370,513 ('513) to Kolawa et al. (application is a continuation-in-part of application Ser No. 09/131,141, now U.S. Patent No.**

**6,263,974 ('974) to Kolawa disclosures of which are incorporated) in view of U.S.**

**Patent No. 6,014,634 to Scroggie et al.**

Regarding claims 4, 11, and 18, Kolawa substantially discloses the claimed invention, however, Kolawa does not disclose a store within a specific distance from the shopper terminal. Kolawa does disclose the personal information includes at least information specifying a method for process element purchase ('513, col. 9, lines 29-33); the means for sale quantity information request issues a request for the sale quantity information to process element providers offering process elements online if a shopper specifies that the process element is to be purchased online, and issues a request for the sale quantity information to process element provider terminals ('513, col. 10, lines 16-19; col. 10, lines 34-44). Furthermore, Kolawa does disclose printing out a shopping list to be used on a shopping trip ('974, col. 10, lines 18-19).

Scroggie, on the other hand, teaches the store within a specific distance from the shopper terminal (to select a supermarket in his or her area, col. 6, lines 44-45; the user is required to enter his or her ZIP code, since the system is location dependent, col. 6, line 66 – col. 7, line 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system, device, and medium of Kolawa, to include, the store within a specific distance from the shopper terminal, in order to permit the customer to plan his or her shopping and shopping-related activities more efficiently (Scroggie, col. 2, lines 8-10).



Regarding claims 7, 14, and 21, Kolawa substantially discloses the claimed invention, however, it does not disclose sales promotional information is requested by a shopper terminal that has not registered the personal information. Kolawa does disclose price optimization ('974, col. 9, lines 59-60).

Scroggie, on the other hand, teaches sales promotional information is requested by a shopper terminal that has not registered the personal information (col. 2, lines 28-32; col. 2, lines 39-42; col. 2, line 66 – col. 3, line 9; col. 3, line 66 – col. 4, line 6; Figure 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system, device, and medium of Kolawa, to include, sales promotional information is requested by a shopper terminal that has not registered the personal information, in order to permit the customer to plan his or her shopping and shopping-related activities more efficiently (Scroggie, col. 2, lines 8-10).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,832,446 to Neuhaus discloses a computerized, electronic cooking encyclopedia.

U.S. Patent No. 6,646,659 to Brown et al. discloses a system for specifying an electronic food menu with food preferences from a universally accessible database.

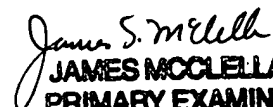
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot  
March 16, 2005

  
**JAMES MCCLELLAN**  
**PRIMARY EXAMINER**  
3/16/05